

# BRESSLER, AMERY & ROSS

A PROFESSIONAL CORPORATION

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October 22, 2012

**By ECF Only**

**COURTESY COPY TO COURT**

Honorable Arlene R. Lindsay, U.S.M.J.  
United States District Court  
Eastern District of New York  
Long Island Federal Courthouse  
814 Federal Plaza  
Central Islip, New York 11722-4451

**Re: Siewharack v. Queens Long Island Medical Group, P.C.  
Civil Action No. 11-cv-3603**

Dear Judge Lindsay:

This firm represents Defendant Queens Long Island Medical Group, P.C. ("QLIMG") in the above-referenced matter, which opposes Plaintiff's motion for expedited discovery and in support of QLIMG's request for an extension of discovery. Plaintiff, after consultation with us, refused to consent to our request for an extension of discovery.

On October 18, 2012, Plaintiff served QLIMG with a voluminous Third Demand for Documents, demanding an expedited fifteen (15) day response time while simultaneously filing her motion without conferring with QLIMG's counsel. Plaintiff's motion should be denied. *First*, expedited discovery as to QLIMG's corporate condition is completely premature and irrelevant. *See CSC Consulting, Inc. v. Aluminum.com, Inc.*, 2001 U.S. Dist. LEXIS 6686, \*3-4 (S.D.N.Y. 2001) (merger discussions are not discoverable). *Second*, Plaintiff has not set forth any support for this allegation or identify the source of such information other than vague allegations. In fact, any information Plaintiff thinks she has was derived from confidential mediation sessions, which Plaintiff has either mischaracterized or misunderstood. *Third*, Plaintiff is not entitled to such discovery before conditional certification. "During the pre-certification stage of a collective action under the FLSA, discovery is limited to issues of certification." *Charles v. Nationwide Mut. Ins. Co.*, 2010 U.S. Dist. LEXIS 143487, 9 (E.D.N.Y. 2010).

QLIMG's request for a discovery extension should be granted. Plaintiff refuses to identify individuals that she believes are similarly-situated, other than seven (7) individuals all from Jamaica Estates. (See Plaintiff's Second Request for Production of Documents, redacted to protect the privacy of non-parties, attached as Exhibit 1.) When we demanded that Plaintiff identify them, she refused until, on October 17, 2012, her counsel simply produced a list

## BRESSLER, AMERY &amp; ROSS

A PROFESSIONAL CORPORATION

October 22, 2012

Page 2

containing the names 595 union members obtained from Local 1199. (See Plaintiff's redacted Supplemental Responses to Defendant's Interrogatories attached as Exhibit 2.) Yet, as late as October 12, 2012, Mr. Shalov told me that he has no statements, certified or otherwise. This list is nonsense; it is a bad faith response to our reasonable demands and Plaintiff's obligations under the FLSA. Plaintiff has also failed to identify any policy, plan or procedure by QLIMG in support of her claims or established that she was not paid for time actually worked. At most, Plaintiff has a single individual claim; hardly enough to concern this Court with allegations that QLIMG will be unable to satisfy a judgment.<sup>1</sup>

QLIMG has previously consented to Plaintiff's numerous requests to extend discovery until October 5, 2012 and December 5, 2012. It agreed to these extensions, anticipating Plaintiff's motion for conditional certification, which Plaintiff never filed. Instead, Plaintiff has purposefully delayed filing for FLSA conditional certification or New York Rule 23 class certification for over one year in an attempt to "wait out" the clock. Plaintiff has also informed us that she plans to file for conditional certification on or before the dispositive motion deadline of December 19, 2012. Mr. Shalov admitted to this office that denying QLIMG the opportunity to conduct class discovery and file its motion for decertification was his strategy all along. Of course, the only deadline left is that for dispositive motions, which a motion for initial collective action certification surely is not. *Gortat v. Capala Bros.*, 2010 U.S. Dist. LEXIS 35451, \*27 (E.D.N.Y. 2010) ("A motion to authorize a collective action is [] a non-dispositive action.").

The Court should not reward Plaintiff's dilatory tactics. The deadline to amend the pleadings to add additional parties expired on April 4, 2012. Plaintiff's pattern of delay in pursuing conditional certification has delayed the notice period, the identification of opt-in plaintiffs and class discovery. See *Gortat*, 2010 U.S. Dist. LEXIS 35451, \*32 (quoting *Valcho v. Dallas County Hosp. Dist.*, 574 F. Supp. 2d 618, 621 (N.D. Tex. 2008) ("[T]he court reexamines the class after notice, time for opting in, and discovery has taken place.") (emphasis added); *Laroque v. Domino's Pizza, LLC*, 557 F. Supp. 2d 346, 352 (E.D.N.Y. 2008) ("After discovery, a second inquiry begins, generally precipitated by a defendant's motion for decertification, in which the court examines with a greater degree of scrutiny whether the members of the plaintiff class -- including those who have opted in -- are similarly situated."). Because of Plaintiff's delaying tactics, QLIMG has only had the opportunity to conduct discovery as to the named plaintiff despite the December 5, 2012 deadline for discovery quickly approaching. As such, Plaintiff's argument that QLIMG had an opportunity to conduct class discovery is a fabrication.

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<sup>1</sup> At the outset of this case, QLIMG asserted that this litigation was subject to a collective bargaining agreement and thus Plaintiff was required to submit her claims to arbitration. Plaintiff therefore agreed to limit her claims to that of overtime for hours worked in excess of forty (40) and filed an Amended Complaint. (a copy of Mr. Ginsberg's letter is attached as Exhibit 3.) However, QLIMG has now been put on notice of Plaintiff's new allegations involving lunch breaks and unpaid compensation. Given the substantive change and divergence from the original allegations in the Complaint, QLIMG has placed Plaintiff on notice that it will file a motion to dismiss and compel arbitration absent withdrawal.

## BRESSLER, AMERY &amp; ROSS

A PROFESSIONAL CORPORATION

October 22, 2012

Page 3

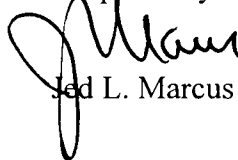
Plaintiff should be barred from filing for conditional certification and proceed on an individual basis. *Parker v. Columbia Pictures Indus.*, 204 F.3d 326, 340 (2d Cir. 2000) (refusing to find good cause where party received notice long in advance of the deadline that the complaint did not name all necessary parties); *Holmes v. Grubman*, 568 F.3d 329, 335 (2d Cir. N.Y. 2009) (affirming denial of leave to amend outside a scheduling order deadline because plaintiff could not show diligence when he failed to raise the relevant facts in any prior pleadings or motion practice).

Should this Court allow Plaintiff to file a motion for preliminary certification well outside the Scheduling Order deadline of April 4, 2012, however, QLIMG cannot reasonably meet the December 5, 2012 discovery deadline for the purposes of class discovery. Indeed, Defendant will not even know whether this case will proceed on a class-wide basis before December 5, 2012 as Plaintiff has refused to file a motion for preliminary certification. This situation clearly establishes “good cause” to extend discovery consistent with *Fed. R. Civ. P.* 16(b)(4). See *Enzymotec Ltd. v. NBTY, Inc.*, 754 F. Supp. 2d 527, 536 (E.D.N.Y. 2010) (“To satisfy the good cause standard ‘the party must show that, despite its having exercised diligence, the applicable deadline could not have been reasonably met.’”). QLIMG has invited Plaintiff to file a motion for conditional certification several times, but Plaintiff’s refusal to do so for tactical reasons has necessitated QLIMG to request this extension.

If the discovery deadline expired before potential opt-in Plaintiffs were even identified – let alone whether they opted-in after notice – QLIMG would be highly prejudiced. QLIMG must have the opportunity to analyze the merits of opt-in Plaintiffs’ allegations and determine whether they are similarly situated. Indeed, the Court has a similar obligation in the second stage of the collective action certification process. *Myers v. Hertz Corp.*, 624 F.3d 537, 555 (2d Cir. 2010) (“At the second stage, the district court will, on a fuller record, determine whether a so-called ‘collective action’ may go forward by determining whether the plaintiffs who have opted in are in fact ‘similarly situated’ to the named plaintiffs. The action may be ‘de-certified’ if the record reveals that they are not, and the opt-in plaintiffs’ claims may be dismissed without prejudice.”). Without class discovery, the Court would be unable to perform this second stage analysis.

Based upon the foregoing, should Plaintiff ever file – and have granted – a motion for conditional certification, QLIMG requests additional time to conduct class discovery from the time plaintiffs’ opt-in period closes. Although discovery could be shorter, QLIMG does not yet know the size of the potential class. Accordingly, QLIMG has attached a proposed Scheduling Order for the Court’s consideration, which specifically sets forth deadlines to ensure that this matter proceeds in a fair and just manner.

Respectfully submitted,

  
Jed L. Marcus

pc: Lee S. Shalov, Esq. (by ECF)

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
KARMA SIEWHARACK on behalf of herself :  
and all other similarly situated employees, :  
: Civil Action No. 11-cv-3603 (WFK)(ARL)  
Plaintiff, :  
:   
v. :   
:   
QUEENS LONG ISLAND MEDICAL :   
GROUP, P.C., :   
:   
Defendant. :  
-----X

**LINDSAY, Magistrate Judge:**

The Scheduling Order in this action dated September 11, 2012 is hereby amended as follows:

**December 18, 2012:** Deadline for Plaintiff to file a motion for initial certification. Defendant shall have forty-five (45) days from the date Plaintiff files her motion to file its opposition.

**October 4, 2013:** Deadline to conduct class discovery.

**November 4, 2013:** Deadline to file motion for decertification.

**December 4, 2013:** Deadline to file final motion for certification.

**February 1, 2014:** Final conference before the undersigned at **11:30 a.m.** Meaningful settlement discussions will occur at the conference. Clients or other persons with full settlement authority must be available by telephone. Parties are to electronically file a joint proposed pretrial order in compliance with the district judge's individual rules, signed by counsel for each party, prior to the conference.

Dated: Central Islip, New York  
\_\_\_\_\_, 2012

**SO ORDERED:**

\_\_\_\_\_  
ARLENE ROSARIO LINDSAY  
United States Magistrate Judge

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

KARMA SIEWHARACK, on behalf of herself and all  
others similarly situated,

Plaintiff,

v.

QUEENS LONG ISLAND MEDICAL GROUP P.C.

Defendant.

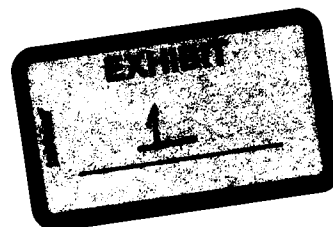
Index No. 2:11-cv-03603-LDW-ARL.

**PLAINTIFF'S SECOND REQUEST FOR THE PRODUCTION OF DOCUMENTS**

PLEASE TAKE NOTICE that pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure and Local Civil Rule 33.3 of the United States District Court for the Southern and Eastern Districts of New York, the above named Plaintiff hereby requests Defendant QLIMG to produce the documents requested herein for inspection and copying no later than thirty (30) days from the date of service hereof, at the offices of McLaughlin & Stern, LLP, 260 Madison Ave., New York, NY 10016, segregated to reflect the request pursuant to which the documents are being produced, and in accordance with the following definitions and instructions.

**INSTRUCTIONS**

1. If any document otherwise required to be produced in response to these interrogatories is withheld from production, the defendant shall, nevertheless, identify each such document stating as to each (i) the type of document; (ii) general subject matter; (iii) date of the document; (vi) author(s), addresses(s), and recipient(s), and if different, its signatory or signatories and the date and place of its preparation; and, (v) the specific basis upon which the document is withheld, including but not limited to whether the attorney-client privilege is claimed.
2. This request is continuing in nature and requires further and supplemental production if additional information or documents responsive hereto are discovered between the time of the initial production hereunder and the time of hearing and trial of this action.
3. If you object to any question or request or part of an item or category, the objection and part objected to shall be specified in accord with Rules 26 and 34 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District

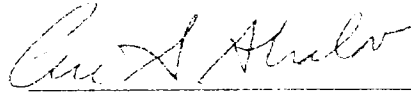


Court for the Southern and Eastern Districts of New York, and within the time limits set forth in those Rules.

**DOCUMENT REQUESTS**

1. From July 20, 2004 to the present, the pay statements and timecard records and/or reports for the following current or former employees of Defendant: (A) [REDACTED]; (B) [REDACTED]; (C) [REDACTED]; (D) [REDACTED]; (E) [REDACTED]; (F) [REDACTED]; and (G) [REDACTED].

Dated: April 25, 2012  
New York, New York



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*Attorneys for Plaintiff, the FLSA Collective  
Class, and the New York Class*

# EXHIBIT 2



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

KARMA SIEWHARACK, on behalf of herself and all  
others similarly situated,

Plaintiff,

v.

QUEENS LONG ISLAND MEDICAL GROUP, P.C.

Defendant.

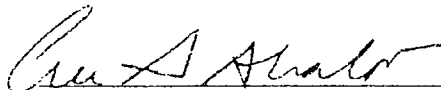
Index No. 2:11-cv-03603-WFK-ARL

**PLAINTIFF'S SUPPLEMENTAL RESPONSES TO  
DEFENDANT'S INTERROGATORIES**

6. Please identify every former or current employee of QLIMC that you claim are "similarly situated" as described in your complaint [sic].

Plaintiff objects to this request because it seeks attorney work product, is over-broad, unduly burdensome, vague and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving such objections, some of the former or current employees of Queens Long Island Medical Group, P.C. that are "similarly situated" to Plaintiff are identified in Exhibit A attached hereto.

Dated: October 17, 2012  
New York, New York

  
Lee S. Shalov, Esq. (LS-7118)  
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*Attorneys for Plaintiff, the FLSA Collective  
Class, and the New York Class*







	B	C	D	E	F	G	H	I	J	K	L	M	N
60									MED ASST	12/23/2002	35	17.11	Elmhurst-Family Med
61									MED ASST	3/29/2004	35	17.11	Elmhurst-Family Med
62									MED ASST	2/25/1991	35	17.28	Elmhurst-Family Med
63									MED ASST	9/22/2003	35	17.11	Elmhurst-Family Med
64									CLERK	12/16/2006	35	16.72	Elmhurst-Family Med
65									MED ASST	10/27/2004	35	17.11	Elmhurst-Family Med
66									MED ASST	6/12/2006	35	17.11	Elmhurst-Family Med
67									MED ASST	9/16/2005	35	17.11	Elmhurst-Family Med
68									MED ASST	9/5/1989	35	17.16	Elmhurst-Family Med
69									MED ASST	10/16/2000	35	17.11	Elmhurst-Family Med
70									MED ASST	3/20/2000	35	17.11	Elmhurst-Family Med
71									MED ASST	7/1/2002	35	17.11	Elmhurst-Family Med
72									MED ASST	10/17/2006	35	17.11	Elmhurst-Family Med
73									MED ASST	11/22/1999	35	17.11	Elmhurst-Family Med
74									MED ASST	1/28/2003	35	17.11	Elmhurst-Family Med
75									MED ASST	3/5/2007	35	17.11	Elmhurst-Family Med
76									MED ASST	11/17/2003	35	17.11	Elmhurst-Family Med
77									MED ASST	5/16/2003	35	17.11	Elmhurst-Family Med
78									MED ASST	5/12/2003	35	17.11	Elmhurst-Family Med
79									MED ASST	12/1/1991	35	17.16	Elmhurst-Family Med
80									MED ASST	9/28/2005	35	17.11	Elmhurst-Family Med
81									MED ASST	11/9/1986	35	17.11	Elmhurst-Family Med
82									CLERK	9/10/1973	35	19.08	Elmhurst-Laboratory
83									LAB AIDE	10/22/1990	35	17.16	Elmhurst-Laboratory
84									LAB AIDE	4/10/2006	35	15.39	Elmhurst-Laboratory
85									LAB AIDE	9/25/2006	35	15.39	Elmhurst-Laboratory
86									CLERK	11/14/2005	35	16.72	Elmhurst-Medical Re
87									CLERK	9/28/2006	35	16.72	Elmhurst-Medical Re
88									CLERK	11/6/2006	35	16.72	Elmhurst-Medical Re
89									CLERK	11/8/1989	35	16.72	Elmhurst-Medical Re
90									CLERK	10/17/2005	35	16.72	Elmhurst-Medical Re
91									CLERK	1/31/2001	35	16.72	Elmhurst-Medical Re
92									CLERK	7/8/1987	35	17.08	Elmhurst-Medical Re
93									CLERK	8/21/1995	35	16.81	Elmhurst-Medical Re
94									CLERK	3/8/1989	35	16.72	Elmhurst-Medical Re
95									CLERK	4/12/1989	35	16.72	Elmhurst-Medical Re
96									CLERK	5/11/2000	35	16.72	Elmhurst-Medical Re
97									CLERK	12/4/2006	35	16.72	Elmhurst-Operations
98									MAINTNCE	10/17/2006	35	15.81	Elmhurst-Operations
99									MAINTNCE	2/16/2008	35	15.81	Elmhurst-Operations
100									CLERK	3/1/2004	35	16.72	Elmhurst-Operations
101									CLERK	1/11/1980	35	17.08	Elmhurst-Operations
102									CLERK	10/10/2005	35	16.72	Elmhurst-Operations
103									SWTCHBRD	3/29/1985	35	17.11	Elmhurst-Operations
104									CLERK	8/18/2005	35	16.72	Elmhurst-Operations
105									CLERK	8/28/2006	35	16.72	Elmhurst-Operations
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111									MED ASST	5/18/2005	35	16.45	Flushing North-Famil
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172									CLERK	1/2/2007	35	16.08	Flushing South-Med
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201									MED ASST	10/10/1994	35	17.11	Flushing South-Radi
202									MED ASST	8/31/1993	35	17.11	Flushing South-Radi
203									MED ASST	3/6/2004	35	17.11	Flushing South-Radi
204									MED ASST	2/9/1998	35	17.11	Flushing South-Radi
205									MED ASST	12/19/1986	35	18.13	Flushing South-Radi
206									CLERK	12/26/2006	35	16.72	Flushing South-Radi
207									LPN	2/3/1992	35	20.83	Flushing South-Radi
208									CLERK	8/6/2006	35	18.72	Flushing South-Radi
209									MED ASST	2/2/2004	35	17.11	Flushing South-Radi
210									MED ASST	12/1/2003	35	17.11	Flushing South-Radi
211									MED ASST	7/10/1979	35	19.85	Flushing South-Radi
212									MED ASST	12/1/2003	35	17.11	Flushing South-Radi
213									MED ASST	12/16/1985	35	17.82	Flushing South-Radi
214									MED ASST	2/28/2000	35	17.11	Flushing South-Radi
215									MED ASST	3/10/2003	35	17.11	Flushing South-Radi
216									MED ASST	10/24/2005	35	17.11	Flushing South-Radi
217									MED ASST	17/5/2006	35	17.11	Flushing South-Radi
218									MED ASST	6/15/2006	35	17.11	Flushing South-Radi
219									MED ASST	4/19/2005	35	17.11	Flushing South-Radi
220									MED ASST	2/24/1992	35	17.16	Flushing South-Radi
221									MED ASST	9/2/1997	35	17.11	Flushing South-Radi
222									MED ASST	10/10/1994	35	17.11	Flushing South-Radi
223									CLERK	2/8/1988	35	17.08	Flushing South-Radi
224									LAB TECH	2/9/1989	35	20.05	Flushing South-Radi
225									LAB TECH	7/19/1993	35	20.05	Flushing South-Radi
226									LAB AIDE	6/29/2005	35	16.45	Flushing South-Radi
227									CLERK	10/1/1991	35	16.72	Flushing South-Radi
228									CLERK	9/21/2005	35	16.72	Flushing South-Radi
229									CLERK	8/26/2002	35	16.72	Flushing South-Radi
230									CLERK	5/23/2005	35	16.72	Flushing South-Radi
231									CLERK	3/20/2006	35	16.72	Flushing South-Radi
232									CLERK	2/28/2007	35	16.72	Flushing South-Radi
233									MED ASST	9/20/1982	35	18.28	Flushing South-Radi
234									CLERK	6/12/2006	35	16.72	Flushing South-Radi
235									CLERK	2/25/2002	35	38.48	Flushing South-Radi

	B	C	D	E	F	G	H	J	K	L	M	N
237								MED ASST	6/5/2002	35	17.11	Forest Hills-Oncology
238								MED ASST	1/26/2001	35	17.11	Forest Hills-Oncology
239								MED ASST	3/25/1991	35	17.16	Forest Hills-Oncology
240								RN	6/21/1995	35	36.40	Forest Hills-Oncology
241								CLERK	11/27/2005	35	16.72	Forest Hills-Oncology
242								MED ASST	6/21/1989	35	18.47	Forest Hills-Oncology
243								RN	10/28/1999	35	36.48	Forest Hills-Oncology
244								MAINTNCE	5/7/6/2005	35	15.81	Forest Hills-Operatic
245								MAINTNCE	11/9/1989	35	22.31	Forest Hills-Operatic
246								CLERK	12/27/98	35	17.13	Forest Hills-Operatic
247								CLERK	9/20/1982	35	18.19	Forest Hills-Operatic
248								CLERK	3/13/2006	35	15.72	Forest Hills-Operatic
249								CLERK	3/22/2004	35	16.72	Forest Hills-Operatic
250								CLERK	1/9/2006	35	16.72	Forest Hills-Operatic
251								CLERK	12/26/2006	35	16.72	Forest Hills-Operatic
252								SWTCHBRD	10/16/1988	35	17.47	Forest Hills-Operatic
253								CLERK	5/23/2005	35	16.72	Forest Hills-Operatic
254								CLERK	2/13/1995	35	17.02	Forest Hills-Operatic
255								CLERK	10/3/2005	35	15.72	Forest Hills-Operatic
256								CLERK	6/22/2005	35	16.72	Forest Hills-Operatic
257								CLERK	11/1/2005	35	15.72	Forest Hills-Operatic
258								CLERK	5/5/1993	35	17.08	Forest Hills-Operatic
259								CLERK	4/9/2001	35	16.72	Forest Hills-Operatic
260								CLERK	5/12/2003	35	16.72	Forest Hills-Operatic
261								CLERK	7/21/2003	35	16.72	Forest Hills-Operatic
262								MED ASST	10/5/1987	35	17.16	Forest Hills-Operatic
263								MED ASST	8/28/1989	35	17.16	Forest Hills-Operatic
264								MED ASST	11/27/2006	35	17.11	Forest Hills-Operatic
265								MED ASST	5/29/1997	35	17.11	Forest Hills-Operatic
266								MED ASST	11/5/2001	35	17.11	Forest Hills-Operatic
267								MED ASST	3/7/1986	35	17.16	Forest Hills-Operatic
268								CLERK	7/24/2006	35	17.12	Forest Hills-Operatic
269								CLERK	8/22/2005	35		Forest Hills-Operatic
270								MED ASST	4/1/2005	35	17.11	Forest Hills-Operatic
271								MED ASST	10/14/2002	35	17.11	Forest Hills-Operatic
272								MED ASST	10/18/1987	35	16.26	Forest Hills-Operatic
273								MED ASST	7/14/2003	35	17.11	Forest Hills-Operatic
274								MED ASST	12/21/1996	35	17.11	Forest Hills-Operatic
275								MED ASST	8/30/2004	35	17.11	Forest Hills-Operatic
276								MED ASST	11/21/1993	35	17.16	Forest Hills-Operatic
277								MED ASST	9/18/2006	35	17.11	Forest Hills-Operatic
278								MED ASST	10/23/2006	35	17.11	Forest Hills-Operatic
279								MED ASST	7/21/2003	35	17.11	Forest Hills-Operatic
280								MED ASST	4/18/2005	35	17.11	Forest Hills-Operatic
281								MED ASST	3/5/2007	35	17.11	Forest Hills-Operatic
282								MED ASST	3/14/2005	35	17.11	Forest Hills-Operatic
283								MED ASST	8/23/2004	35	17.11	Forest Hills-Operatic
284								MED ASST	3/12/2007	35	17.11	Forest Hills-Operatic
285								MED ASST	11/8/2004	35	17.11	Forest Hills-Operatic
286								MED ASST	12/8/2003	35	17.11	Forest Hills-Operatic
287								MED ASST	8/29/2005	35	17.11	Forest Hills-Operatic
288								MED ASST	11/7/2005	35	17.11	Forest Hills-Operatic
289								MED ASST	5/16/2005	35	17.11	Forest Hills-Operatic
290								MED ASST	6/21/1999	35	17.11	Forest Hills-Operatic
291								MED ASST	1/1/1993	35	17.16	Forest Hills-Operatic
292								MED ASST	6/26/1995	35	17.11	Forest Hills-Operatic
293								MED ASST		35		Forest Hills-Operatic
294								MED ASST		35		Forest Hills-Operatic
295								MED ASST		35		Forest Hills-Operatic



	A	B	C	D	E	F	G	H	I	J	K	L	M	N
296										MED ASST	2/12/2007	35	17.11	Jamaica Estates-Fa
297										MED ASST	2/14/2005	35	17.11	Jamaica Estates-Fa
298										MED ASST	3/31/1978	35	15.77	Jamaica Estates-Fa
299										MED ASST	1/12/1997	35	17.11	Jamaica Estates-Fa
300										MED ASST	6/8/1992	35	17.15	Jamaica Estates-Fa
301										MED ASST	2/14/2005	35	17.11	Jamaica Estates-Fa
302										MED ASST	1/30/2006	35	17.11	Jamaica Estates-Fa
303										LAB AIDE	8/1/1988	35	17.15	Jamaica Estates-Fa
304										CLERK	7/8/1981	35	16.18	Jamaica Estates-Fa
305										LAB AIDE	7/6/2003	35	15.39	Jamaica Estates-Fa
306										LAB AIDE	7/15/2006	35	15.39	Jamaica Estates-Fa
307										CLERK	7/24/2006	35	16.72	Jamaica Estates-Fa
308										CLERK	2/17/1999	35	16.72	Jamaica Estates-Fa
309										CLERK	9/21/1987	35	17.15	Jamaica Estates-Fa
310										CLERK	8/26/1981	35	17.16	Jamaica Estates-Fa
311										CLERK	5/6/2003	35	16.72	Jamaica Estates-Fa
312										CLERK	4/4/1988	35	17.08	Jamaica Estates-Fa
313										CLERK	11/30/1998	35	16.72	Jamaica Estates-Fa
314										CLERK	1/31/6/1988	35	17.08	Jamaica Estates-Fa
315										CLERK	5/2/2005	35	16.72	Jamaica Estates-Fa
316										CLERK	1/26/1990	35	17.08	Jamaica Estates-Fa
317										CLERK	1/25/2002	35	17.11	Jamaica Estates-Fa
318										MED ASST	4/13/1998	35	16.72	Jamaica Estates-Fa
319										CLERK	3/15/2007	35	16.72	Jamaica Estates-Fa
320										MED ASST	1/17/1994	35	17.11	Jamaica Estates-Fa
321										MED ASST	6/20/1994	35	17.16	Jamaica Estates-Fa
322										MED ASST	3/13/2005	35	17.11	Jamaica Estates-Fa
323										MED ASST	9/25/1989	35	17.16	Jamaica Estates-Fa
324										MED ASST	10/2/2005	35	17.11	Jamaica Estates-Fa
325										MED ASST	4/17/2005	35	17.11	Jamaica Estates-Fa
326										MED ASST	12/1/1985	35	16.60	Jamaica Estates-Fa
327										CLERK	1/15/2007	35	16.72	Jamaica Estates-Fa
328										CLERK	1/15/2007	35	16.72	Jamaica Estates-Fa
329										CLERK	1/16/2007	35	16.72	Jamaica Estates-Fa
330										CLERK	8/7/4/2006	35	16.72	Jamaica Estates-Fa
331										MAINTNCE	1/25/2004	35	15.81	Jamaica Estates-Fa
332										CLERK	1/11/2/2005	35	16.72	Jamaica Estates-Fa
333										CLERK	10/10/2005	35	16.72	Jamaica Estates-Fa
334										CLERK	3/16/2007	35	16.72	Jamaica Estates-Fa
335										CLERK	6/13/2005	35	16.72	Jamaica Estates-Fa
336										CLERK	1/16/1992	35	17.13	Jamaica Estates-Fa
337										CLERK	9/21/1987	35	16.72	Jamaica Estates-Fa
338										CLERK	10/21/1989	35	17.15	Jamaica Estates-Fa
339										CLERK	11/21/2005	35	16.72	Jamaica Estates-Fa
340										CLERK	11/15/2004	35	16.72	Jamaica Estates-Fa
341										CLERK	6/12/2003	35	16.72	Jamaica Estates-Fa
342										CLERK	3/18/1991	35	17.09	Jamaica Estates-Fa
343										CLERK	3/22/1993	35	16.91	Jamaica Estates-Fa
344										CLERK	7/10/2000	35	16.72	Jamaica Estates-Fa
345										CLERK	11/7/2005	35	16.72	Jamaica Estates-Fa
346										CLERK	1/16/2007	35	16.72	Jamaica Estates-Fa
347										CLERK	7/6/2005	35	16.72	Jamaica Estates-Fa
348										MED ASST	7/8/1974	35	15.15	Jamaica Estates-Fa
349										MED ASST	1/10/2005	35	17.11	Jamaica Estates-Fa
350										MED ASST	9/28/1985	35	17.16	Jamaica Estates-Fa
351										MED ASST	8/26/1986	35	17.82	Jamaica Estates-Fa
352										MED ASST	8/7/2005	35	17.11	Jamaica Estates-Fa
353										MED ASST	11/24/2003	35	17.11	Jamaica Estates-Fa
354										MED ASST	5/1/2006	35	17.11	Jamaica Estates-Fa



	A	C	D	E	F	G	H	I	J	K	L	M	N
365									MED ASST	3/22/2004	35	17.11	Jamaica Estates-Ped
366									MED ASST	6/18/2004	35	17.11	Jamaica Estates-Ped
367									MED ASST	5/1/2006	35	17.11	Jamaica Estates-Ped
368									MED ASST	7/5/2005	35	17.11	Jamaica Estates-Ped
369									LPN	1/29/1990	35	23.00	Jamaica Estates-Ped
370									MED ASST	5/19/2003	35	17.11	Jamaica Estates-Ped
371									MED ASST	1/8/2000	35	19.76	Jamaica Estates-Ped
372									CLERK	6/19/2006	35	16.72	Jamaica Estates-Ped
373									CLERK	7/11/2000	35	16.72	Jamaica Estates-Ped
374									CLERK	9/11/1995	35	16.89	Jamaica Estates-Ped
375									CLERK	10/27/1999	35	16.89	Jamaica Estates-Ped
376									CLERK	9/25/2006	35	16.89	Jamaica Estates-Ped
377									CLERK	1/30/1978	35	16.89	Jamaica Estates-Ped
378									CLERK	4/25/2005	35	16.89	Jamaica Estates-Ped
379									CLERK	10/19/1998	35	16.72	Jamaica Estates-Ped
380									CLERK	10/16/2005	35	16.72	Jamaica Estates-Ped
381									CLERK	1/26/2004	35	16.72	Jamaica Estates-Ped
382									CLERK	1/24/2006	35	16.72	Jamaica Estates-Ped
383									CLERK	1/27/2007	35	16.72	Jamaica Estates-Ped
384									CLERK	8/22/2005	35	16.54	Jamaica Estates-Ped
385									CLERK	7/14/2003	35	17.11	Jamaica Estates-Ped
386									CLERK	10/3/1996	35	17.11	Jamaica Estates-Ped
387									CLERK	3/26/1982	35	16.26	New Hyde Park-Alter
388									CLERK	10/10/2000	35	17.11	New Hyde Park-Alter
389									CLERK	11/15/1979	35	18.30	New Hyde Park-Alter
390									CLERK	11/11/2003	35	17.11	New Hyde Park-Alter
391									CLERK	9/12/2005	35	17.11	New Hyde Park-Alter
392									CLERK	6/29/1993	35	17.08	New Hyde Park-Alter
393									CLERK	10/3/12/05	35	17.11	New Hyde Park-Alter
394									CLERK	9/8/2005	35	17.11	New Hyde Park-Alter
395									CLERK	2/7/2005	35	17.11	New Hyde Park-Alter
396									CLERK	9/30/2002	35	17.11	New Hyde Park-Alter
397									CLERK	4/26/2004	35	20.57	New Hyde Park-Alter
398									CLERK	7/12/1994	35	17.11	New Hyde Park-Alter
399									CLERK	7/5/2006	35	17.11	New Hyde Park-Alter
400									CLERK	5/3/2006	35	17.11	New Hyde Park-Alter
401									CLERK	11/6/1980	35	18.43	New Hyde Park-Alter
402									CLERK	4/4/2005	35	17.11	New Hyde Park-Alter
403									CLERK	11/14/2005	35	17.11	New Hyde Park-Alter
404									CLERK	2/12/2007	35	17.11	New Hyde Park-Alter
405									CLERK	12/27/2005	35	17.11	New Hyde Park-Alter
406									CLERK	8/10/1987	35	20.05	New Hyde Park-Alter
407									CLERK	1/27/2007	35	15.39	New Hyde Park-Alter
408									CLERK	8/21/2006	35	16.72	New Hyde Park-Alter
409									CLERK	5/10/1994	35	17.08	New Hyde Park-Alter
410									CLERK	8/28/2008	35	16.46	New Hyde Park-Alter
411									CLERK	6/26/1993	35	17.47	New Hyde Park-Alter
412									CLERK	7/24/2005	35	16.72	New Hyde Park-Alter
413									CLERK	10/3/2005	35	16.72	New Hyde Park-Alter
414									CLERK	1/27/2003	35	17.11	New Hyde Park-Alter
415									CLERK	12/20/1982	35	18.26	New Hyde Park-Alter
416									CLERK	2/12/1990	35	17.16	New Hyde Park-Alter
417									CLERK	10/26/2002	35	17.11	New Hyde Park-Alter
418									CLERK	2/24/1986	35	17.43	New Hyde Park-Alter
419									CLERK	6/10/1991	35	17.11	New Hyde Park-Alter
420									CLERK	11/5/2001	35	17.11	New Hyde Park-Alter

	B	C	D	E	F	G	H	I	J	K	L	M	N
414									MED ASST	4/4/2005	35	17.11	Queens Village-Fam
415									MED ASST	8/7/2000	35	17.11	Queens Village-Fam
416									MED ASST	7/26/2004	35	17.11	Queens Village-Fam
417									MED ASST	5/17/1999	35	17.11	Queens Village-Fam
418									MED ASST	5/30/2006	35	17.11	Queens Village-Fam
419									MED ASST	7/8/1954	35	17.16	Queens Village-Fam
420									MED ASST	10/17/1994	35	16.97	Queens Village-Lab
421									LAB AIDE	8/2/2004	35	15.39	Queens Village-Lab
422									CLERK	8/15/2005	35	16.72	Queens Village-Med
423									CLERK	7/25/2005	35	16.72	Queens Village-Med
424									CLERK	10/9/2006	35	16.72	Queens Village-Med
425									CLERK	1/28/1991	35	17.08	Queens Village-Med
426									CLERK	10/31/2005	35	16.72	Queens Village-Med
427									CLERK	2/6/1995	35	15.72	Queens Village-Med
428									CLERK	8/18/2004	35	16.72	Queens Village-Med
429									MED ASST	9/28/2006	35	17.11	Queens Village-Med
430									MED ASST	10/19/2004	35	17.11	Queens Village-Med
431									MAINTNCE	2/1/2003	35	15.81	Queens Village-Med
432									CLERK	5/28/1991	35	17.08	Queens Village-Med
433									CLERK	3/12/2007	35	16.72	Queens Village-Med
434									CLERK	8/20/1990	35	17.08	Queens Village-Med
435									CLERK	10/18/1999	35	16.72	Queens Village-Med
436									CLERK	5/2/2005	35	16.72	Queens Village-Med
437									CLERK	10/31/2005	35	16.72	Queens Village-Med
438									CLERK	4/22/2002	35	16.72	Queens Village-Med
439									MED ASST	10/10/2000	35	17.11	Queens Village-Med
440									MED ASST	9/5/1989	35	17.16	Queens Village-Med
441									MED ASST	10/2/1991	35	17.16	Queens Village-Med
442									MED ASST	1/26/1972	35	19.16	Queens Village-Med
443									PN	6/27/2005	35	24.64	Queens Village-Med
444									MED ASST	9/23/1991	35	17.16	Queens Village-Med
445									CLERK	7/13/1982	35	16.72	Queens Village-Med
446									CLERK	10/31/2005	35	16.72	Queens Village-Med
447									MED ASST	5/18/1998	35	16.72	Queens Village-Med
448									CLERK	8/9/2005	35	17.11	Queens Village-Med
449									CLERK	3/29/2004	35	16.72	Queens Village-Med
450									CLERK	6/20/2005	35	16.72	Queens Village-Med
451									CLERK	9/15/2003	35	17.66	Queens Village-Med
452									MED ASST	3/13/1995	35	17.11	Queens Village-Med
453									MED ASST	7/8/1997	35	17.11	Queens Village-Med
454									MED ASST	2/12/1996	35	17.11	Queens Village-Med
455									MED ASST	6/5/1987	21	16.31	Queens Village-Med
456									MED ASST	12/28/1989	35	16.10	Queens Village-Med
457									MED ASST	3/20/2006	35	17.11	Queens Village-Med
458									MED ASST	4/5/2004	35	17.11	Queens Village-Med
459									CLERK	3/5/2007	35	16.72	Queens Village-Med
460									MED ASST	10/24/2005	35	17.11	Queens Village-Med
461									MED ASST	9/8/2003	35	17.11	Queens Village-Med
462									MAINTNCE	5/16/2005	35	15.61	Queens Village-Med
463									CLERK	9/2/1992	35	17.13	Queens Village-Med
464									CLERK	10/3/2005	35	16.72	Queens Village-Med
465									WATCHBOD	7/27/1987	35	17.11	Queens Village-Med
466									CLERK	10/3/2005	35	16.72	Queens Village-Med
467									CLERK	11/4/2001	35	16.72	Queens Village-Med
468									CLERK	9/30/2002	35	16.72	Queens Village-Med
469									CLERK	6/28/2004	35	22.00	Queens Village-Med
470									CLERK	2/28/2005	35	23.57	Queens Village-Med
471									CLERK	7/10/2002	35	26.00	Queens Village-Med
472									CLERK	3/26/2001	35	24.33	Queens Village-Med



	A	B	C	D	E	F	G	H	I	J	K	L	M	N
532										SV-C-PRD	1/1/2005	24	17.11	Richmond Hill, Ontari
533										CLERK	1/16/2005	35	16.72	Richmond Hill, Ontari
534										CLERK	1/27/2005	35	16.72	Richmond Hill, Ontari
535										CLERK	5/16/2005	35	16.72	Richmond Hill, Ontari
536										MED ASST	9/8/1982	35	17.16	Richmond Hill, Ontari
537										PN	5/6/1993	35	20.90	Richmond Hill, Ontari
538										MED ASST	8/20/1993	35	17.15	Richmond Hill, Ontari
539										CLERK	12/22/1997	35	16.72	Richmond Hill, Ontari
540										RAYTECH	2/6/2006	35	27.04	Richmond Hill, Ontari
541										MED ASST	5/6/2005	35	17.11	Richmond Hill, Ontari
542										MED ASST	5/26/2002	35	17.11	Richmond Hill, Ontari
543										MED ASST	4/1/2004	35	17.11	Richmond Hill, Ontari
544										MED ASST	10/7/1994	35	17.16	Richmond Hill, Ontari
545										MED ASST	3/30/2004	35	17.11	Richmond Hill, Ontari
546										MED ASST	8/20/2005	35	17.11	Richmond Hill, Ontari
547										MED ASST	3/3/1992	35	17.11	Richmond Hill, Ontari
548										MED ASST	1/16/2006	35	17.11	Richmond Hill, Ontari
549										PN	12/4/2005	35	21.00	Richmond Hill, Ontari
550										MED ASST	10/6/1998	35	17.11	Richmond Hill, Ontari
551										CLERK	9/10/1975	35	18.20	Richmond Hill, Ontari
552										LAB AIDE	4/7/2003	35	15.39	Richmond Hill, Ontari
553										LAB TECH	9/21/1992	35	20.05	Richmond Hill, Ontari
554										CLERK	9/11/1978	35	19.05	Richmond Hill, Ontari
555										CLERK	1/19/2004	35	19.72	Richmond Hill, Ontari
556										CLERK	8/16/1993	35	17.16	Richmond Hill, Ontari
557										CLERK	1/13/1981	35	19.51	Richmond Hill, Ontari
558										CLERK	8/14/2005	35	15.72	Richmond Hill, Ontari
559										CLERK	5/21/2005	35	16.72	Richmond Hill, Ontari
560										CLERK	9/21/1997	35	16.72	Richmond Hill, Ontari
561										CLERK	12/11/1959	35	16.91	Richmond Hill, Ontari
562										CLERK	12/16/2005	35	16.72	Richmond Hill, Ontari
563										CLERK	10/7/2003	35	16.72	Richmond Hill, Ontari
564										CLERK	5/16/1993	35	18.19	Richmond Hill, Ontari
565										MED ASST	5/13/1994	35	17.21	Richmond Hill, Ontari
566										MED ASST	7/31/2006	35	17.11	Richmond Hill, Ontari
567										MED ASST	6/28/2004	35	17.11	Richmond Hill, Ontari
568										MED ASST	10/15/2003	35	17.67	Richmond Hill, Ontari
569										MAINTNCE	1/18/2002	25	15.81	Richmond Hill, Ontari
570										MAINTNCE	10/1/1991	35	15.11	Richmond Hill, Ontari
571										MED ASST	1/16/1987	35	17.16	Richmond Hill, Ontari
572										MED ASST	5/20/2002	35	17.11	Richmond Hill, Ontari
573										MED ASST	2/7/2000	35	17.11	Richmond Hill, Ontari
574										WATCHBO	6/15/1987	35	17.82	Richmond Hill, Ontari
575										MED ASST	10/20/2005	35	17.71	Richmond Hill, Ontari
576										CLERK	12/11/1978	35	18.65	Richmond Hill, Ontari
577										MED ASST	1/18/1982	31	18.26	Richmond Hill, Ontari
578										MED ASST	6/24/1985	31	17.72	Richmond Hill, Ontari
579										MED ASST	4/20/1981	35	18.26	Richmond Hill, Ontari
580										MED ASST	7/31/2006	35	17.11	Richmond Hill, Ontari
581										MED ASST	12/6/2004	35	17.11	Richmond Hill, Ontari
582										MED ASST	4/7/2003	35	17.11	Richmond Hill, Ontari
583										MED ASST	1/26/1983	35	18.26	Richmond Hill, Ontari
584										CLERK	12/23/1997	35	17.08	Richmond Hill, Ontari
585										CLERK	6/23/2004	35	16.72	Richmond Hill, Ontari
586										RAYTECH	1/5/1990	35	26.55	Richmond Hill, Ontari
587										RAYTECH	4/10/2006	35	25.12	Richmond Hill, Ontari
588										MED ASST	2/27/2006	35	17.11	Richmond Hill, Ontari
589										MED ASST	9/1/1994	35	17.11	Richmond Hill, Ontari
590										MED ASST	10/17/2005	35	17.11	Richmond Hill, Ontari

	B	C	D	E	F	G	H	I	J	K	L	M	N
591									MEDASST	3/10/1995	35	19.37	Rockaway-Family Vd
592									MEDASST	6/16/2003	35	17.11	Rockaway-Family Vd
593									MEDASS	4/23/1994	35	18.19	Rockaway-Family Vd
594									MEDASS	6/23/2003	35	17.11	Rockaway-Family Vd
595									LAB AIDE	8/8/2005	35	15.38	Rockaway-Laborator
596									MAINTNCE	2/10/1992	35	16.28	Rockaway-Operation
597									SWITCHBRD	4/9/1984	35	13.19	Rockaway-Operation
598									CLERK	1/6/2006	35	16.72	Rockaway-Operation
599									CLERK	10/3/2005	35	16.72	Rockaway-Operation
600									CLERK	1/16/1996	35	21.43	Rockaway-Operation
601									CLERK	6/27/2005	35	16.72	Rockaway-Operation
602									CLERK	5/8/1978	35	19.08	Rockaway-Operation
603									CLERK	3/29/2004	35	16.72	Rockaway-Operation
604									MEDASST	6/23/1987	35	17.11	Rockaway-Pediatrics
605									MEDASST	9/17/1999	35	15.60	Valley Stream-Urgen
606									MEDASST	10/7/1991	35	17.11	Valley Stream-Urgen

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# EXHIBIT 3

09/26/2011 17:17 FAX

09/26/2011

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PRACTICE LIMITED  
TO LABOR  
EMPLOYMENT LAW

Please direct all communications to our Roslyn office

## LAW FIRM OF LOUIS GINSBERG, P.C.

September 26, 2011

### VIA FAX

Jed L. Marcus, Esq.  
Bressler, Amery & Ross  
P.O. Box 1980  
Morristown, New Jersey 07962

Re: Siewharack v. Queens Long Island Medical Group, PC

Dear Mr. Marcus:

We represent the Plaintiff as well as the putative collective and class members.

Pursuant to our conversation this afternoon, this is to confirm that the overtime claims in this case only seek compensation for hours worked in excess of forty(40) per week. Please confirm that you will be withdrawing your letter to the Court requesting a pre-motion conference in order to make a Motion to Dismiss.

Plaintiff as well as the putative collective and class members expressly reserve all of their other rights and claims.

Sincerely,

Louis Ginsberg, Esq.  
For the Law Firm of  
Louis Ginsberg, P.C.

cc: Lee Shalov, Esq.

